

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

ALFRED MERCER

* CIVIL ACTION NO. 11-0372

VERSUS

* JUDGE ROBERT G. JAMES

LIFE INSURANCE COMPANY OF
NORTH AMERICA


* MAG. JUDGE KAREN L. HAYES

J U D G M E N T

The Report and Recommendation of the Magistrate Judge having been considered, no objections thereto having been filed, and finding that same is supported by the law and the record in this matter,

IT IS ORDERED, ADJUDGED, AND DECREED that the cross-motions for summary judgment [doc. #s 6 & 9] filed by plaintiff Alfred Mercer and defendant Life Insurance Company of North America are hereby **GRANTED IN PART** and **DENIED IN PART**. Fed.R.Civ.P. 56. LINA's determination that Mercer is not disabled is a factual determination that is subject to review for abuse of discretion, with the court weighing any conflict of interest (if established by the employee) as a factor in the analysis. Furthermore, in the event that any issues of plan term interpretation arise in the course of these proceedings, the court shall review the issue(s) *de novo*.

THUS DONE AND SIGNED this 21 day of September 2011 in
Monroe, Louisiana.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE